UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,770	05/02/2001	Mark A. Kampe	80168-0105	4958

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EXAMINER
BONURA, TIMOTHY M

ART UNIT	PAPER NUMBER
2114	10

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 May 2001*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *5, 6, and 7*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-3, 5-9, 13-14, 16-20, and 22-29 rejected under 35 U.S.C. 102(e) as being

anticipated by Nakamura, U.S. Patent Number 6,446,134.

3.   Regarding claim 1,

a.   Regarding the limitation of "using a plurality of components to represent

hardware and software in the networked computer system, wherein the plurality of

components are high-availability aware," Nakamura discloses a system with a plurality of

servers, manager units and communication channels. (Lines 31-34 of Column 4).

b.   Regarding the limitation of "maintaining a desired level or levels of redundancy

of the plurality of components," Nakamura discloses a system wherein the service

monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines 38-40 of

Column 2). Nakamura also disclose a system wherein upon fault detection stopping and

starting of units occurs in response to a fault notification. (Lines 56-60 of Column 2).

4.   Regarding claim 2, Nakamura discloses a system with means to recover from failure of a

service unit. (Lines 51-55 Column 2).

5.   Regarding claim 3, Nakamura discloses a system with means to recover from failure of a service unit. (Lines 51-55 Column 2).

6.   Regarding claim 5:

c.   Regarding the limitation of "detecting a component failure among the plurality of components," Nakamura discloses a system with means to detect a state of a unit for faults. (Liens 21-27 of Column 3).

d.   Regarding the limitation of "reporting the component failure when appropriate," Nakamura discloses a system with means of notifying mangers units of a fault. (Lines 29-31 of Column 3).

e.   Regarding the limitation of "conduction a component failure recover procedure," Nakamura discloses a system with means to automatically restart a component if a fault notification exists. (Lines 38-40 of Column 3).

7.   Regarding claim 6:

f.   Regarding the limitation of "detecting a component failure among the plurality of components," Nakamura discloses a system with means to detect a state of a unit for faults. (Lines 21-27 of Column 3).

g.   Regarding the limitation of "reporting the component failure when appropriate," Nakamura discloses a system with means of notifying mangers units of a fault. (Lines 29-31 of Column 3).

h.   Regarding the limitation of "conduction a component failure recover procedure," Nakamura discloses a system with means to automatically restart a component if a fault notification exists. (Lines 38-40 of Column 3).

8.   Regarding claim 7:

        i.   Regarding the limitation of "assigning states to the plurality of components,"

Nakamura discloses a system with a service monitor unit that monitors the state off

service units. (Lines 10-14 of Column 5).

        j.   Regarding the limitation of "providing checkpoint services," Nakamura discloses

a system with means for a manager unit to monitor the status of a unit. (Lines 21-24 of

Column 3).

        k.   Regarding the limitation of "monitoring health of the plurality of components,"

Nakamura discloses a system with means of notifying mangers units of a fault. (Lines

29-31 of Column 3).

        l.   Regarding the limitation of "detecting component failure," Nakamura disclose a

system with means to detect a state of a unit for faults. (Lines 21-27 of Column 3).

        m.   Regarding the limitation of "recovering from the component failure using

checkpoint information," Nakamura discloses a system with network management system

fault information in a data format (Lines 17-19 of Column 6), which is used to by service

processor to alert management units of a faulty unit and recovery takes place. (Lines 66-

67 of Column 6 and Lines 1-9 of Column 7).

9.   Regarding claim 8, Nakamura discloses a system wherein units are can be in a stop and

start state. The stop state being an off-line state when a fault is detected. (Lines 22-25 of

Column 5 and Lines 9-11 of Column 6).

10.   Regarding claim 9:

n.   Regarding the limitation of "isolating a cause of the component failure,"

Nakamura disclose a system wherein the service-monitoring unit will send out a message

with a field set to identify if a unit is faulty. (Lines 33-41 of Column 6).

o.   Regarding the limitation of "applying a failure recovery procedure to address the

cause," Nakamura disclose a system with to automatically restart a component if a fault

notification exists. (Lines 38-40 of Column 3)

11.   Regarding claim 13, Nakamura discloses a system with an API that can send system

messages. (Liens 25-32 of Column 6).

12.   Regarding claim 14, Nakamura discloses a system that can operate in multiple platforms.

(Lines 25-32 of Column 6).

13.   Regarding claim 16:

p.   Regarding the limitation of "using a plurality of components to represent hard and

software in the networked computer system, wherein the plurality of components are

high-availability aware," Nakamura disclose a system with Nakamura discloses a system

with a plurality of servers, manager units and communication channels. (Lines 31-34 of

Column 4).

q.   Regarding the limitation of "managing the plurality of components to achieve a

desired level or level of redundancy," Nakamura discloses a system wherein the service

monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines 38-40 of

Column 2). Nakamura also disclose a system wherein upon fault detection stopping and

starting of units occurs in response to a fault notification. (Lines 56-60 of Column 2).

r.   Regarding the limitation of "monitoring health of the networked computer system, including health of the plurality of components and health of the plurality of nodes," Nakamura disclose a system with monitoring capabilities to monitor for faults in a network managed computer system. (Lines 18-25 of Column 2).

s.   Regarding the limitation of "detecting a failure in the networked computer system, including a failure of a component in the plurality of components and a failure of anode in the plurality of nodes," Nakamura disclose a system with means to detect a state of a unit for faults. (Lines 21-27 of Column 3).

t.   Regarding the limitation of "recovering from the failure by performing an appropriate failure recovery procedure," Nakamura disclose a system with to automatically restart a component if a fault notification exists. (Lines 38-40 of Column 3).

14.   Regarding claim 17, Nakamura disclose a system with can alert a network manager the state of the computer system. (Lines 38-40 of Column 2).

15.   Regarding claim 18, Nakamura disclose a system with can alert a network manager of a fault in the computer system. (Lines 57-60 of Column 2).

16.   Regarding claim 19, Nakamura disclose a system wherein the monitoring of the system is conducted with the network management system. (Lines 38-40 of Column 2).

17.   Regarding claim 20, Nakamura disclose a system with filtering means to filter condition information for the manager. (Lines 25-29 of Column 3). Nakamura disclose a system with to automatically restart a component if a fault notification exists. (Lines 38-40 of Column 3).

18.   Regarding claim 22, Nakamura disclose a system with a plurality of server units and a

plurality of management units when are connected and operate to notify each other of operating

state in the server units. (Lines 59-67 of Column 1 and 1-3 of Column 2).

19.   Regarding claim 23:

    u.   Regarding the limitation of "means for providing component services," Nakamura

    discloses a system with a plurality of servers, manager units and communication

    channels. (Lines 31-34 of Column 4).

    v.   Regarding the limitation of "means for providing availability management

    services," Nakamura discloses a system with a manager for the services. (Lines 52-56 of

    Column 1).

    w.   Regarding the limitation of "means for providing distributed system services,"

    Nakamura discloses a system with a network of server connected via the network and

    managed by a management system. (Lines 58-65 of Column 1).

    x.   Regarding the limitation of "means for providing platform specific services,"

    Nakamura discloses a system that can operate in multiple platforms. (Lines 25-32 of

    Column 6).

    y.   Regarding the limitation of "means for providing external management services,"

    Nakamura discloses a system with management units that are connected to the network

    not directly connected to the servers. (Lines 31-34 of Column 4 and Figure 1).

    z.   Regarding the limitation of "wherein the plurality of components are high-

    availability aware and represent software and hardware in the networked computer

system," Nakamura disclose a system with Nakamura discloses a system with a plurality

of servers, manager units and communication channels. (Lines 31-34 of Column 4).

20.   Regarding claim 24, Nakamura discloses a system that can operate to operating systems.

(Lines 25-32 of Column 6).

21.   Regarding claim 25:

aa.   Regarding the limitation of "wherein the plurality of components are high-

availability aware and represent software and hardware in the networked computer

system," Nakamura disclose a system with Nakamura discloses a system with a plurality

of servers, manager units and communication channels. (Lines 31-34 of Column 4).

bb.   Regarding the limitation of "means for maintaining a desired level or level of

redundancy of the plurality of components," Nakamura discloses a system wherein the

service monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines

38-40 of Column 2). Nakamura also disclose a system wherein upon fault detection

stopping and starting of units occurs in response to a fault notification. (Lines 56-60 of

Column 2).

22.   Regarding claim 26:

cc.   Regarding the limitation of "wherein the plurality of components are high-

availability aware and represent software and hardware in the networked computer

system," Nakamura disclose a system with Nakamura discloses a system with a plurality

of servers, manager units and communication channels. (Lines 31-34 of Column 4).

dd.   Regarding the limitation of "means for maintaining a desired level or level of

redundancy of the plurality of components," Nakamura discloses a system wherein the

service monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines 38-40 of Column 2). Nakamura also disclose a system wherein upon fault detection stopping and starting of units occurs in response to a fault notification. (Lines 56-60 of Column 2).

ee.   Regarding the limitation of "monitoring health of the networked computer system, including health of the plurality of components and health of the plurality of nodes," Nakamura disclose a system with monitoring capabilities to monitor for faults in a network managed computer system. (Lines 18-25 of Column 2).

ff.   Regarding the limitation of "detecting a failure in the networked computer system, including a failure of a component in the plurality of components and a failure of anode in the plurality of nodes," Nakamura disclose a system with means to detect a state of a unit for faults. (Lines 21-27 of Column 3).

gg.   Regarding the limitation of "recovering from the failure by performing an appropriate failure recovery procedure," Nakamura disclose a system with to automatically restart a component if a fault notification exists. (Lines 38-40 of Column 3).

23.   Regarding claim 27:

hh.   Regarding the limitation of "wherein the plurality of components are high-availability aware and represent software and hardware in the networked computer system," Nakamura disclose a system with Nakamura discloses a system with a plurality of servers, manager units and communication channels. (Lines 31-34 of Column 4).

24.   Regarding claim 28:

ii.   Regarding the limitation of "wherein the plurality of components are high-availability aware and represent software and hardware in the networked computer system," Nakamura disclose a system with Nakamura discloses a system with a plurality of servers, manager units and communication channels. (Lines 31-34 of Column 4).

jj.   Regarding the limitation of "means for maintaining a desired level or level of redundancy of the plurality of components," Nakamura discloses a system wherein the service monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines 38-40 of Column 2). Nakamura also disclose a system wherein upon fault detection stopping and starting of units occurs in response to a fault notification. (Lines 56-60 of Column 2).

25.   Regarding claim 29:

kk.   Regarding the limitation of "wherein the plurality of components are high-availability aware and represent software and hardware in the networked computer system," Nakamura disclose a system with Nakamura discloses a system with a plurality of servers, manager units and communication channels. (Lines 31-34 of Column 4).

ll.   Regarding the limitation of "means for maintaining a desired level or level of redundancy of the plurality of components," Nakamura discloses a system wherein the service monitor monitors the state of the network. (Lines 35-36 of Column 4 and Lines 38-40 of Column 2). Nakamura also disclose a system wherein upon fault detection stopping and starting of units occurs in response to a fault notification. (Lines 56-60 of Column 2).

mm.   Regarding the limitation of "monitoring health of the networked computer

system, including health of the plurality of components and health of the plurality of

nodes," Nakamura disclose a system with monitoring capabilities to monitor for faults in

a network managed computer system. (Lines 18-25 of Column 2).

nn.   Regarding the limitation of "detecting a failure in the networked computer

system, including a failure of a component in the plurality of components and a failure of

anode in the plurality of nodes," Nakamura disclose a system with means to detect a state

of a unit for faults. (Lines 21-27 of Column 3).

oo.   Regarding the limitation of "recovering from the failure by performing an

appropriate failure recovery procedure," Nakamura disclose a system with to

automatically restart a component if a fault notification exists. (Lines 38-40 of Column

3).

Claim Rejections - 35 USC § 103

26.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

27.   Claims 4, 10-12, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Nakamura as applied to claim 1 above, and further in view of Parks, et al, U.S. Patent

Number 6,598,174.

28.   Regarding claim 4, Nakamura discloses a system with a plurality of servers, manager

units and communication channels. Nakamura also disclose a system wherein upon fault

detection stopping and starting of units occurs in response to a fault notification. (See claim 1 above). Nakamura does not disclose a system with means to migrate a component of the plurality of components from one node to another node. Parks discloses a system with means to migrate data from one unit to another unit to maintain a high level of integrity. (Lines 20-28 of Column 3). It would have been obvious to one of ordinary skill at the time of the invention to combine the network management detection and redundancy of Nakamura with the migration of Park. One of ordinary skill in the art would have combined Park and Nakamura because Nakamura discloses that a unit can be placed in a stop in which the information cannot be accessed by the network. (Lines 42-50 of Column 2). Park's system improves Nakamura's system by allowing for the continuation of data accessing after a fault.

29.   Regarding claim 10, Nakamura discloses a system with a plurality of servers, manager units and communication channels. Nakamura also disclose a system wherein upon fault detection stopping and starting of units occurs in response to a fault notification. (See claim 1 above). Nakamura does not disclose a system with means to have nodes with different versions of software. Parks discloses a system with means have different driver modules and configurable logic to handle different drivers (Lines 48-56 of Column 4). It would have been obvious to one of ordinary skill at the time of the invention to combine the network management detection and redundancy of Nakamura with the driver logic of Park. One of ordinary skill in the art would have combined Park and Nakamura because Nakamura discloses that a unit can be placed in a stop in which the information cannot be accessed by the network. (Lines 42-50 of Column 2). Park's system improves Nakamura's system by allowing for the continuation of data accessing after a fault.

30.   Regarding claim 11, Parks discloses a system wherein multiple different drivers can be
accessed to respond to a failure. It would be inherent in the system of Parks that there are
updates to the drivers.

31.   Regarding claim 12, Nakamura discloses a system with a plurality of servers, manager
units and communication channels. Nakamura also disclose a system wherein upon fault
detection stopping and starting of units occurs in response to a fault notification. (See claim 1
above). Nakamura does not disclose a system with means to maintain a specific redundancy
level. Parks discloses a system with means providing redundancy for data over a number of data
storage devices. (Lines 10-22 of Column 8). It would have been obvious to one of ordinary skill
at the time of the invention to combine the network management detection and redundancy of
Nakamura with the logic engine of Park. One of ordinary skill in the art would have combined
Park and Nakamura because Nakamura discloses that a unit can be placed in a stop in which the
information cannot be accessed by the network. (Lines 42-50 of Column 2). Park's system
improves Nakamura's system by allowing for the continuation of data accessing after a fault.

32.   Regarding claim 15, Nakamura discloses a system with a plurality of servers, manager
units and communication channels. Nakamura also disclose a system wherein upon fault
detection stopping and starting of units occurs in response to a fault notification. (See claim 1
above). Nakamura does not disclose a system with means to maintain a system based on account
information. Parks discloses a system with means for a logic engine that contains data for
transferring information based on status information, identification of data and data concerning
transfer. (Lines 27-38 of Column 4). It would have been obvious to one of ordinary skill at the
time of the invention to combine the network management detection and redundancy of

Nakamura with the logic engine of Park. One of ordinary skill in the art would have combined Park and Nakamura because Nakamura discloses that a unit can be placed in a stop in which the information cannot be accessed by the network. (Lines 42-50 of Column 2). Park's system improves Nakamura's system by allowing for the continuation of data accessing after a fault.

33.   Regarding claim 21, Nakamura discloses a system with a plurality of servers, manager units and communication channels. Nakamura also disclose a system wherein upon fault detection stopping and starting of units occurs in response to a fault notification. (See claim 1 above). Nakamura does not disclose a system with means to migrate a component of the plurality of components from one node to another node. Parks discloses a system with means to migrate data from one unit to another unit to maintain a high level of integrity. (Lines 20-28 of Column 3). It would have been obvious to one of ordinary skill at the time of the invention to combine the network management detection and redundancy of Nakamura with the migration of Park. One of ordinary skill in the art would have combined Park and Nakamura because Nakamura discloses that a unit can be placed in a stop in which the information cannot be accessed by the network. (Lines 42-50 of Column 2). Park's system improves Nakamura's system by allowing for the continuation of data accessing after a fault.

Conclusion

34.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura.**

> o   The examiner can normally be reached on **Mon-Fri: 7:30-5:00, every other Friday off.** The examiner can be reached at: **703-305-7762.**

35.   If attempts to reach the examiner by telephone are unsuccessful, please contact the

examiner's supervisor, **Rob Beausoliel.**

   o   The supervisor can be reached on **703-305-9713.**

36.   The fax phone numbers for the organization where this application or proceeding is

assigned are:

   o   **703-872-9306 for all patent related correspondence by FAX.**

37.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov/. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
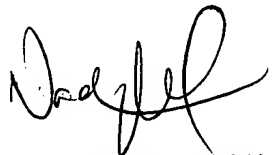
38.   Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the **receptionist** whose telephone number is: **703-305-3900.**

39.   Responses should be mailed to:

   o   **Commissioner of Patents and Trademarks**

       P.O. Box 1450

       Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114

tmb
June 14, 2004   NADEEM IQBAL
                       PRIMARY EXAMINER